National Labor Relations Board



Weekly Summary of NLRB Cases

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C A S E S S U M M A R I Z E D VISIT <u>WWW.NLRB.GOV</u> FULL TEXT

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Coca-Cola Enterprises, Inc., Eastern Great Lakes Division (3-RD-1527; 352 NLRB No. 123) Horseheads, NY Aug. 14, 2008. The Board reversed the Regional Director's finding that a Memorandum of Understanding (MOU) between the Union and the Employer constituted a bar to a decertification petition. The Board found, contrary to the Regional Director, that the MOU, which dealt with certain terms and conditions for drivers only, did not constitute an extension of the parties' long-term contract, and thus did not have bar quality. Specifically, the Board found that, under Southwestern Portland Cement Co., 126 NLRB 931 (1960), the MOU was neither intended to be new agreement embodying new terms and conditions nor did it incorporate by reference the terms of the long-term agreement. Additionally, the Board found that the MOU was not a written amendment that expressly reaffirmed the original agreement and failed to evidence the parties' clear intention to be bound for the specified period of the long-term agreement, i.e., until 2009. [HTML] [PDF]

Accordingly, the petition was reinstated, and the case remanded to the Regional Director for further processing.

(Chairman Schaumber and Member Liebman participated)

Electrical Workers IBEW Local 3 (29-CD-617; 352 NLRB No. 124) Long Island City, NY Aug. 15, 2008. The Board found that employees of Unitec Elevator Co. (Employer), represented by Electrical Workers IBEW Local 3 (Respondent) are entitled to continue performing the work in dispute. The work was also claimed by the Elevator Constructors of New York and New Jersey Local 1. [HTML] [PDF]

The work in dispute involves the "modernization" of 60 elevators at a multi-building apartment complex in Queens, NY by removing the existing elevator cars and motors and installing new equipment and component parts in the existing elevator shafts. In finding that there was reasonable cause to believe that Section 8(b)(4)(D) of the Act had been violated, the Board rejected Local 1's claims that Local 3's strike threat was a sham and that Unitec was bound by a jurisdictional dispute resolution plan as an "alter ego" of a company subject to that plan. On the merits, the Board awarded the disputed work to the employees represented by Local 3 based on the factors of certification and collective-bargaining agreements, current assignment, employer past practice and preference, prior Board case, and economy and efficiency of operations.

(Chairman Schaumber and Member Liebman participated.)

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Allstate Power Vac, Inc. (Laborers Local 78) Brooklyn, NY Aug. 11, 2008. 29-CA-28264, et al.; JD(NY)-30-08, Judge Raymond P. Green.

White Oak Manor (an Individual) Shelby, NC Aug. 12, 2008. 11-CA-21786; JD(ATL)-25-08, Judge Lawrence W. Cullen.

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board considered exceptions to Reports of Regional Directors or Hearing Officers)

DECISION AND CERTIFICATION OF REPRESENTATIVE

SIS Northwest, Inc., Sedro Wooley, WA, 19-RC-15066, Aug. 12, 2008 (Chairman Schaumber and Member Liebman)

(In the following cases, the Board adopted Reports of Regional Directors or Hearing Officers in the absence of exceptions)

DECISION AND CERTIFICATION OF REPRESENTATIVE

Knight-Celotex Fiberboard, Lisbon Falls, ME, 1-RC-22195, Aug. 11, 2008

DECISION AND ORDER [remanding proceeding to Regional Director for further appropriate action]

Price Choice Supermarkets, d/b/a C-Town, Brooklyn, NY, 29-RC-11600, Aug. 11, 2008 Regency Grande Nursing and Rehabilitation Center, Dover, NJ, 22-RC-12889, et al., Aug. 11, 2008

DECISION AND DIRECTION [that Regional Director open and count ballot]

Catholic Healthcare West, d/b/a Bruceville Terrace of Sacramento, Sacramento, CA, 20-RC-18187, Aug. 11, 2008

(In the following cases, the Board denied requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Iron Mountain Information Management, Inc., 22-RC-12930, Aug. 12, 2008 (Chairman Schaumber and Member Liebman)
